

c. The CONTRACTOR'S proposal.

All of these documents are incorporated herein by reference as if set out verbatim and made a part of this Master Agreement. In the event of any conflicts between the Master Agreement and the items above listed, or between the items above listed themselves, the order of priority is that the Master Agreement, exclusive of the items listed above, shall take precedence over the items listed and the items listed shall thereafter take precedence over each other so that the earlier listed item would take precedence over the later listed item.

Services Performed in a Professional Manner

In accordance with Paragraph 1.5 above, the CONTRACTOR hereby represents and warrants to the State that all services provided under each SOW shall be rendered in a professional and workmanlike manner and in accordance with generally accepted industry standards.

1.15 Advertising Use and Representation

The CONTRACTOR and its subcontractors shall not refer to this Master Agreement in commercial advertising in such a manner as to state or imply that the software, products or services provided are endorsed or preferred by the State and are considered by the State to be superior to other products and services. The State reserves the right to review and approve any commercial advertising wherein the State's use of software, products or services provided hereunder are referenced. Such review shall be timely and approval shall not be unreasonably withheld.

Insurance

The CONTRACTOR shall maintain, throughout the performance of its obligations under this Master Agreement, a policy or policies of worker's compensation insurance with such limits as may be required by law, and a policy or policies of general liability insurance insuring against liability for injury to, and death of, persons and damage to, and destruction of, property arising out of or based upon any act or omission of the CONTRACTOR or any of its subcontractors or their respective officers, directors, employees or agents. Such general liability insurance shall be in the amount of at least \$7.5 million to cover any loss or potential loss resulting from this Master Agreement, including coverage for the risk of loss obligations assumed by the CONTRACTOR.

Drug-Free Work Place

The CONTRACTOR, pursuant to South Carolina Section 44-107-30, certifies that it provides a drug-free work place and will do so throughout the duration of this Master Agreement.

Audit Rights

The State shall have the right to audit the books and records of the CONTRACTOR as they pertain to this Master Agreement both independent of and pursuant to South Carolina Code Section 11-35-2220. Such books and records shall be maintained for a period of three (3) years from the date of the final payment or the termination of this Master Agreement, whichever is later. The State may conduct, or have conducted, performance audits of the CONTRACTOR'S books and records. The State may also conduct, or have conducted, audits of specific requirements as set forth in the RFP or this Master Agreement (e.g., application development cost) as determined necessary by the State. Pertaining to all audits, the CONTRACTOR shall make available access to its computer files containing the history of contract performance and all other documents related to the audit. Additionally, any software used by the CONTRACTOR shall be made available for auditing purposes at no cost to the State.

Taxes

The State is exempt from federal excise tax, and such tax shall not be added to the CONTRACTOR'S prices nor included on the CONTRACTOR'S invoices. To the extent that any tax of any kind is charged to the CONTRACTOR as a result of providing the software and services under this Master Agreement, then and in that event such tax shall be billed to the State. The CONTRACTOR agrees that it will take no action that interferes with the State's tax exempt status.

Invoicing

Prior to the submission to an authorized agency of any billing, and following acceptance of the software and/or services, the CONTRACTOR shall conduct a full inventory of all software and accessories in the presence of the agency's Project Manager and supply to the agency a copy of the said inventory. Said inventory shall include reference to: this Master Agreement, including all items of cost; the SOW, any change orders; and all other documents, such as a purchase order issued by the agency. All statements and/or bills submitted to the agency for payment shall include a specific reference to these documents. Any statements or bills not satisfying this requirement will not be honored by the agency. It is the intent of this requirement that all invoices submitted to an agency by the CONTRACTOR for payment shall reference some previous document, whether this Master Agreement, the SOW, the change order, or a purchase order, where it is demonstrated that the agency has authorized the purchase and installation of any item billed, together with a reference to the inventory which establishes that the item has actually been installed. If any disputes arise between the CONTRACTOR and the agency regarding the inventory, these disputes may be resolved either through mutual agreement between the parties or by the dispute resolution procedures set forth in South Carolina Code Section 11-35-4230. This provision shall apply to all disputes including change orders, charges, and any claims arising under this Master Agreement by or against either party. In addition, the CONTRACTOR, and all subcontractors, agree to continue to provide services notwithstanding any dispute

between the parties and under no circumstances will the CONTRACTOR or any subcontractor withhold any service or product for any reason unless agreed to in writing by the State.

Interruption of Services

It is understood and agreed by the CONTRACTOR that interruption of software products and services through any form of unscheduled downtime, unavailability of products or other causes, however brief, may have immediate consequence for an authorized agency, including the ability to provide services to customers and citizens in a timely manner. Therefore, the CONTRACTOR pledges all reasonable and necessary resources to resolving problems that constitute interruption of products and services and will work in a professional and prompt manner to address any interruption at any period of time.

Forum Selection and Choice of Law


The Agreement and any dispute arising out of or relating to this Agreement shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina. The CONTRACTOR consents to be governed by Section 11-35-4230 of the South Carolina Code of Laws. To the extent that Section 11-35-4230, by its own terms, does not govern a dispute arising out of or relating to the Agreement, the CONTRACTOR agrees that any such dispute shall be instituted and maintained only in a state or federal court located in Richland County, State of South Carolina. The CONTRACTOR agrees that any act by the State regarding the Agreement is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United State's Constitution. As used in this Paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by this Master Agreement.

Remedies

Any and all remedies shall be considered cumulative and not exclusive. The CONTRACTOR shall be responsible for the full performance hereunder of all software developed by the CONTRACTOR, services and/or supplies provided by the CONTRACTOR, and the State shall solely rely upon the CONTRACTOR for performance of such software, supplies and services.

Notices

Any notices permitted or required to be given hereunder shall be deemed duly given upon actual delivery, if delivery is by hand, upon receipt by the transmitting party of confirmation or answer back if delivery is telex or telegram or upon deposit into the United States mail if delivery is by postage prepaid registered or certified return receipt requested mail. Each such notice shall be sent to the respective party at their regular

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business address or to any other address as the respective party may designate by notice delivered pursuant hereto.

Notices shall be directed to the following addresses and shall identify the particular or relative Statement of Work involved, if applicable:

As to the State:

Eric Pinckney, Procurement Officer
Office of Chief Information Officer
1201 Main Street, Suite 820
Columbia, SC 29201

As to KPMG:

Tim Perkins, Managing Director
KPMG Consulting, Inc.
150 Fayetteville Mall, Suite 1200
Post Office Box 29543
Raleigh, North Carolina 27626-0543

KPMG Consulting, Inc.
1676 International Drive
McLean, VA 22102-4828
Attention: Group Counsel Public Services

Breach/Waiver

No term or provision hereof shall be deemed waived unless breach thereof is waived in writing and signed by the party claimed to have waived and consented. No consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall constitute consent to, or waiver of, or excuse for, any different or subsequent breach.

Modifications

Any amendments or other modifications hereunder shall not be effective unless reduced to writing, signed by the State and the CONTRACTOR, and executed with the same formality as this Master Agreement.

Severability

If any term or provision shall be terminated or found to be illegal or unenforceable, then, notwithstanding any such termination, illegality or unenforceability, the remainder of this Master Agreement shall remain in full force and effect and such term or provision shall be deemed to be deleted and severable therefrom.

Assignment

The CONTRACTOR agrees that it will not assign this Master Agreement, nor the duties or responsibilities hereunder, without the prior consent of the State, which the State will not unreasonably withhold. The State's consent will be limited to the assignment being made in connection with a Statement of Work hereunder, and a business combination or sale of substantially all the assets of the CONTRACTOR. To the extent specified in a Statement of Work, the parties contemplate that certain portions of an agency project may be assigned by the CONTRACTOR to Team IA or SAP. Where services provided for hereunder are supplied by an assignee, the CONTRACTOR assumes responsibility for performance by that assignee as set forth in Paragraphs 1.3 and 1.11.4 of this Master Agreement.

South Carolina Law Applicable

The CONTRACTOR agrees to comply with all laws of South Carolina that may require the CONTRACTOR to be authorized and/or licensed to do business in this State including any questions as to the liability for taxes, licenses, or fees levied by the State.

1.30 Compliance with Codes and Ordinances

During the term of this Master Agreement, it shall be the CONTRACTOR'S responsibility to ensure compliance with all applicable provisions of laws, codes, ordinances, rules and regulations. To the extent that any requirements of this Master Agreement are less stringent than any such applicable laws, codes, ordinances, rules and regulations, the non contract sources will apply so as to make the requirements imposed upon the CONTRACTOR more, rather than less, stringent. The parties agree to work together to address any new requirements or regulations that may result from the implementation of Section 508 of the 1998 Workforce Improvement Act amendments to the Rehabilitation Act. Any new requirements resulting from Section 508 will be addressed through the change management process, if appropriate.

Whole Agreement

This Master Agreement, together with all subordinate and other documents incorporated by reference herein, will constitute the entire agreement between the parties with respect to the subject matter contained herein.

Performance Bond

Upon request of an authorized agency, the CONTRACTOR agrees to supply, at its option, a performance bond; certificate of deposit; or an unconditional, irrevocable, standby letter of credit (herein "security") which is pledged to the benefit of the agency, not under the control of the CONTRACTOR, is payable to the agency upon written demand to the holder of the security in the event of a default, and is subject to the

direction of the agency. This security will protect, indemnify, and save harmless the agency from all costs and damages by reason of the CONTRACTOR'S default, breach, or failure to satisfactorily complete the requirements set forth in the applicable SOW.

- 32.1 In the event of any condition of default, material breach or other such circumstances attributable to the CONTRACTOR'S software and/or services, the agency shall have the right to demand payment pursuant to the security such sums as are necessary to ensure performance, or such other sums as may become due to the agency, pursuant, but not limited to, the SOW, the Master Agreement, Parts 5, 6 and 7 of the RFP, and any other agreement between the parties in which costs are incurred, to secure and compensate the agency for substituted services or other forms of relief made necessary by the breach. Nothing herein shall be construed to mean that the security provided for herein is exclusive or constitutes any limitation or restriction on any remedies to which the agency may be entitled. This right to draw against the security does not include alleged defaults resulting from a deviation in the SAP and/or Team IA software that impairs the utilization, performance or value of the software or services hereunder, which the State agrees will be addressed via the software license and maintenance agreements with the software vendors.
- 1.32.2 The security shall be for the benefit of the agency, payable only to the agency in the event of a CONTRACTOR default and/or material breach pursuant to the terms of this paragraph and the security document, and shall be in an amount agreed to by the parties. The security shall be non-exclusive and in addition to all other remedies available to the agency under the RFP, this Master Agreement and by law.
- 1.32.3 The CONTRACTOR shall establish the security not later than fifteen (15) business days after execution of the SOW by the parties, and failure to satisfy this requirement may void the SOW ab initio.
- 1.32.4 Any interest or other income resulting from the security shall become and remain the property and possession of the CONTRACTOR and shall be payable to the CONTRACTOR.

1.33 Purchasing Liability

In executing this Master Agreement, the Chief Procurement Officer (CPO) is acting under the authority given to him by the Consolidated Procurement Code to procure software and services on behalf of authorized agencies and acts only as their agent in this respect. Any resulting contract is between the appropriate authorized agency and the CONTRACTOR. Neither the CPO nor the Comptroller General bear any liability for any damages that any party may incur in the execution, performance, or enforcement of such contracts.

SECTION 2: SUMMARY OF SAP SOFTWARE AGREEMENTS

2.1 License Agreement

The specific terms and conditions under which the State and authorized agencies may acquire a license to use the SAP software products have been negotiated by the State and SAP and are contained in the SAP License Agreement attached hereto as Exhibit 1. Authorized agencies shall have the option to purchase SAP software under this License Agreement during the Initial and any Renewal Terms of the Master Agreement.

2.2 Ownership/Right to License/Noninfringement

SAP has represented and warranted to the State that it owns or has the right to license to the State the software listed below, and that the software does not, and will not, infringe any intellectual property right of any third party.

2.3 Software Provided Under This Master Agreement

The software products included under the SAP License Agreement are listed below. Through the License Agreement, authorized agencies may, at their discretion, acquire a nonexclusive, nontransferable perpetual license for any or all these software products. Additionally, new SAP software and products may be added under the License Agreement, as set forth below, at prices mutually agreed to by SAP and the State. The SAP software available under the SAP License Agreement includes:

- R/3 Version of the SAP Software. This is the client/server or browser-based version of the ERP software offered by SAP and provided the core business processes described in the RFP, the project accounting/job costing for capital projects module, the inventory management module, the grants management module, the activity based costing module, and the cash and investment management module.

MySAP.com Version of the SAP Software. This Web version of the ERP software offered by SAP and includes all of the business processes and modules described above plus additional features such as e-catalog, portal, single desktop/workspace and the like.

2.4 Maintenance Agreement

The specific terms and conditions under which the State and authorized agencies may acquire maintenance of the above software products have been negotiated by the parties and are also contained in Exhibit 1 to this document. Maintenance of the SAP software may be acquired by State agencies as set forth in the South Carolina Consolidated Procurement Code, and may be acquired by non-State governmental agencies in accordance with the procurement policies of their particular jurisdiction.

2.5 Types of Seats

There are two (2) types of seats available under the SAP License Agreement. The types of seats, and the activities that employees who are assigned these seats can perform, are as set forth below.

Professional Seat. A heads-down user who has access to the software to perform updates, additions, deletions and/or queries as determined appropriate by an agency's system administrator.

Employee Self Service (ESS) Seat. A user that has access to the software to update his/her personnel information using the self-service applications implemented by an agency (i.e., insurance, deductions, leave, etc.).

2.6 Terms of Payment

License Fees. SAP licensees are available under the License Agreement on a per seat basis. The license fee is a one-time cost that is incurred upon delivery and installation of the software to an authorized agency. The authorized agency shall have up to one (1) year from the date of delivery to pay such fees as set forth in the License Agreement.

Maintenance Fees. The maintenance fee for the SAP is an annual fee and is seventeen (17%) percent of net SAP license fees. This rate is firm for the five (5) year (the Initial Term of the Master Agreement). The initial maintenance fees for any SAP software acquired under the License Agreement shall be due upon delivery of such software to an authorized agency. The authorized agency shall accept the software and pay fees in accordance with the License Agreement. Maintenance fees shall be paid in advance on an annual basis thereafter. Maintenance fees shall include all new versions, releases, enhancements, updates, patches, etc. to the SAP software acquired by the authorized agency.

2.7 New Software and Products

During the Initial Term and any Renewal Terms of this Master Agreement, SAP shall provide the State with information regarding any new modules or service products developed by SAP. The State may at its option decide if such software and/or products should be added under this Master Agreement. The State will be provided with the same type and level of discounts of the list price of such software/products as provided for software/products available under this Master Agreement.

SECTION 3: SUMMARY OF TEAM IA SOFTWARE AGREEMENTS

3.1 License Agreement

The specific terms and conditions under which the State and authorized agencies may acquire a license to use the Team IA software products have been negotiated by the State and Team IA and are contained in the Team IA License Agreement attached hereto as Exhibit 2. Authorized agencies shall have the option to purchase Team IA software under this License Agreement during the Initial and any Renewal Terms of the Master Agreement.

Ownership/Right to License/Noninfringement

Team IA has represented and warranted to the State that it owns or has the right to license to the State the software listed below, and that the software does not, and will not, infringe any intellectual property right of any third party.

Software Provided Under This Master Agreement

The software products included under the Team IA License Agreement are listed below. Through that License Agreement, authorized agencies may, at their discretion, acquire a nonexclusive, nontransferable perpetual license for any or all these software products. Additionally, new Team IA software and products may be added under that License Agreement, as set forth below, at prices mutually agreed to by Team IA and the State. The Team IA software available under the License Agreement includes:

Software	Description
Storage/Volume Management SW License for HP 220MX	Jukebox Data Storage Management SW License. Allows for move, copy and purge rules.
Storage/Volume Management SW License for HP 600MX	Jukebox Data Storage Management SW License. Allows for move, copy and purge rules.
Storage/Volume Management SW License for HP 1200MX	Jukebox Data Storage Management SW License. Allows for move, copy and purge rules.
Storage/Volume Management SW License for HP 2200MX	Jukebox Data Storage Management SW License. Allows for move, copy and purge rules.
Imaging Retrieval SW License	Imaging Viewer Client SW License.
COLD Retrieval SW License	COLD Report Viewer SW License.
Imaging/COLD Retrieval SW License	Imaging and COLD Viewer SW License.
Workflow Engine Access SW License	Concurrent connection to Workflow server engine.
Browser Based Data Search Engine SW License	Browser based Imaging Retrieval SW License.
AFP Processing SW License	Server component allowing for AFP data to be accepted into COLD system.
Workflow Admin/Builder SW License	Workflow Process Builder Utility. Allows for the creation of users, queues, routing, etc.
Workflow Intelligent Monitoring and Reporting SW License	Real-time monitoring tool with graphical displays of system workload.
Workflow AutoWorkbasket Server (Windows) SW License	Dedicated server to handle transaction within workflow process.

Imaging Windows Print Server SW License	Print Server SW License to handle print requests over the network.
Image Processing SW License Engine	Image Enhancement SW Engine. Provides de-speckling, de-skewing, border removal, etc.
IA ScanAdvantage SW License	Paper Scan module
IADataGator Server SW License	Server interface module providing host system data into IAJetScan module.
IA JetScan Desktop SW License	Paper Scan and Indexing module with indexing integrated with host system.
IA JetScan TouchScreen SW License	IA JetScan Desktop Module with touchscreen interface.
IA PostAdvantage Server SW License	Indexing module for cash receivables integrated with the host system and imaging system. Includes one (1) IA Index Post Client SW License.
IA Index Post Client SW License	
IA ScanAdvantage SW License	Module allowing IAScanAdvantage to input images in PostAdvantage.
IA Transact Server SW License	Bulk Image and Index import utility.
IA Cacheflow Advantage SW License	Utility for pre-fetching documents from Optical platters to magnetic image cache.
Kodak AWIS Archiver 4800 SW License	Digital Image to film conversion software. Kodak Archiver 4800 and related HW required.
IAImage Extract Utility SW License	Utility for exporting Images from system via secondary media (i.e. CD-ROM, DVD-ROM,...)
IACashier SW License	Integrated cashiering module for collecting fees for documents being filed into imaging system.
IAIndex/Proof SW License	Indexing and Proofing module for integrated cashiering system.
IAPublic Access	Module to provide access to images in imaging system and charge fees for printing and faxing images in the integrated cashiering/imaging system.
IA Image Verification	Utility for verification that images have been written to optical platters.

3.4 Maintenance Agreement

The specific terms and conditions under which the State and authorized agencies may acquire maintenance of the above software products have been negotiated by the parties and are contained in Exhibit 2 to this document. Maintenance of the Team IA software may be acquired by State agencies as set forth in the South Carolina Consolidated Procurement Code, and may be acquired by non-State governmental agencies in accordance with the procurement policies of their particular jurisdiction.

3.5 License/Maintenance Fees

The license and maintenance fees for the Team IA software are set forth in the Team IA Pricing Schedule attached the Team IA Sales and License Agreement (Exhibit 2). These fees do not include any taxes. If Team IA is required to pay sales or other use taxes based upon the license granted to the State or maintenance of such software, the State

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will reimburse Team IA the amount of taxes paid by Team IA up to the amount required by law.

3.6 Terms of Payment

License Fees.

Team IA license fees are a one-time cost incurred upon delivery and installation of the software by Team IA to the authorized agency. The State or authorized agency shall pay such fees in accordance with the payment schedule set forth in the SOW. These license fees shall be based upon the fees set forth in Exhibit 2 which are firm for a period of two (2) years from the date of execution of the Team IA Sales and License Agreement.

Maintenance Fees.

Authorized agencies may, at their option, select either basic or enhanced maintenance for the Team IA software acquired hereunder. Prices for both levels of maintenance are provided in Exhibit 2. All prices for maintenance fees are firm for a period of five (5) years (the Initial Term of the Master Agreement). The cost of maintenance under a particular SOW will be based upon the effective date of the Team IA Sales and License Agreement, the Year in which the maintenance becomes effective, and the level of maintenance selected.

Consulting/Implementation Services.

Team IA may provide consulting and implementation services under the Master Agreement on a time and material or fixed price basis as set forth in Paragraph 1.3. The services to be provided will be set forth in each SOW with the cost based upon the hourly rates set forth in Attachment 1 of the Master Agreement. These hourly rates do not include travel expenses. If required, travel expenses may only be charged to an authorized agency in accordance with Paragraph 4.4 of this Master Agreement.

3.7 New Software and Products

During the Initial Term and any Renewal Terms of this Master Agreement, Team IA shall provide the State with information regarding any new software or service products developed by Team IA. The State may at its option decide if such software and/or products should be added under this Master Agreement. The State will be provided with the same type and level of discounts of the list price of such software/products as provided for software/products available under this Master Agreement.